

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSHAUA RYAN KIRBY,

Plaintiff,

v.

PIERCE COUNTY JAIL,

Defendant.

Case No. C07-5322 BHS/KLS

ORDER OF DISMISSAL FOR  
FAILURE TO PROSECUTE

This matter comes before the Court on the Report and Recommendation of the Honorable Karen L. Strombom (Dkt. 19). The Court has considered the Report and Recommendation and the remainder of the file and hereby dismisses Plaintiff's claims without prejudice for the reasons stated herein.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

On October 25, 2007, Defendant moved for summary judgment. Dkt. 15. Plaintiff did not respond to the motion. On February 11, 2008, Magistrate Judge Strombom filed a Report and Recommendation recommending dismissal for failure to exhaust and failure to state a claim under 42 U.S.C. § 1983. Dkt. 19. The Report and Recommendation construes Plaintiff's failure to respond to the Motion for Summary Judgment as an admission that the

1 motion has merit, pursuant to Local Rule CR 7(b)(2), and thoroughly addresses the merits of  
2 Defendant's motion. *See* Dkt. 19.

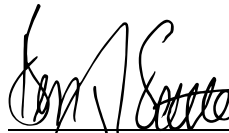
3 Plaintiff has not objected to the Report and Recommendation. On March 10, 2008,  
4 the Court renoted the Report and Recommendation because it was unclear whether Plaintiff  
5 had received a copy of Defendant's Motion for Summary Judgment and because Plaintiff  
6 had not received a copy of the Report and Recommendation. Dkt. 21 at 2. The Court warned  
7 Plaintiff that this action would be dismissed without prejudice for failure to prosecute if  
8 Plaintiff failed to update his address on or before April 15, 2008. *Id.* To date, Plaintiff has  
9 failed to inform the Court of his current address..

## 10 II. ORDER

11 Therefore, it is hereby

12 **ORDERED** that Plaintiff's claims are **DISMISSED without prejudice** for failure to  
13 prosecute pursuant to Local Rule CR 41(b)(2).

14 DATED this 25<sup>th</sup> day of April, 2008.

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18 BENJAMIN H. SETTLE  
United States District Judge